

CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
May 20, 2003
6:30 p.m. Closed Session
7:30 p.m. Public Business
455 E. Calaveras Boulevard

I. ROLL CALL (6:30 p.m.)

II. ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 086-05-009, 086-10-025, and 086-11-013

Negotiating Party: Thomas J. Wilson

Under Negotiation: Price and Terms of Payment

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to Government Code Section 54956.9[a])

Titles: Rhodes and Kesling, Inc. v. City of Milpitas,

Casey-Fogli Concrete Contractors, Inc. v. Rhodes and Kesling, Inc.,

City of Milpitas, et al.

Santa Clara County Superior Court Case No. 804145

3. CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Government Code Section 54957.6)

Agency Negotiator: Cherie Rosenquist

Employee Organizations: IAFF Local 1699, LIUNA, MEA, MPOA, MSA, ProTech, and Unrepresented

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:30 p.m.)

V. APPROVAL OF MINUTES: May 6, 2003

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS

Proclamation:

- Memorial Day Proclamation, May 26, 2003

Commendations:

- Artists who contributed to Senior Showcase, May 13 – June 2, 2003

Otto Herman	Jim Brown	Dan Steger
Carl Roach	Antonia Aguilar	Betty Smith
Ling Chen	Pat Drop	Irene Sebastian
Mickey Carter	Lupe Gonzalez	Mary Meacham
Ann Tinkler	Alice Woodrow	Neola Swanson

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARING

- 1. 2003/04 Storm Drain Connection Fee: Continue Consideration of Ordinance No. 239.2, Amendments to Title XI of the Milpitas Municipal Code Indefinitely (Staff Contact: Darryl Wong, 586-3345)**

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 6, 2003

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. Joint Public Hearing on the Proposed Eighth Amendment to the Redevelopment Plan for Redevelopment Project No. 1 (Staff Contact: Blair King, 586-3060)

RA6. Review Progress Report on 3rd and 4th Floor Improvements and Project Closeout Progress: Civic Center (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)

***RA7. Request Authorization to Resale Affordable Housing Unit At 24 Rain Walk at Parc Metropolitan Great Mall Residential Development (Staff Contact: Felix Reliford, 586-3071)**

***RA8. Accept and File the 2002 Terrace Gardens Annual Financial Report (Staff Contact: Tom Wilson, 586-3050)**

RA9. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- 2. Consider Introducing Ordinance No. 260 Adding Chapter 600 to Title I of the Milpitas Municipal Code Related to Display of Flags: Vice Mayor Dixon and Councilmember Polanski**
- 3. Approve a New Location for the Installation of the Public Art Work in Murphy Park: Councilmember Polanski**

4. **Discuss and Approve a Council Policy Directing Staff to Also Place on the Closed Session Agenda All Items Relating to Labor Negotiations Placed by a Councilmember on the Council's Open Public Agenda: Councilmember Polanski**

Community Advisory Commission

- *5. **Amend the 2003 Community Advisory Commission Work Plan (Staff Contact: James Lindsay, 586-3274)**

XV. NEW BUSINESS

- *6. **Selwyn Park: Appropriation from Parks Fund (Staff Contact: Mike McNeely, 586-3301 and Mark Rogge, 586-3257)**
- *7. **Approve Two Youth Sports Assistance Fund Grant Requests (Staff Contact: Kerrilyn Ely, 586-3225)**

XVI. ORDINANCES

8. **Introduce Ordinance No. 243.2 Amending Chapter 210 of Title I of the Milpitas Municipal Code Related to Disbursement of Excess Campaign Funds (Staff Contact: Steve Mattas, 586-3040)**
9. **Adopt Ordinance No. 38.761 Amending Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Municipal Code (P-ZT2003-1) and the Zoning Map (P-ZC2003-1) (Staff Contact: Staci Pereira, 586-3278)**

XVII. RESOLUTIONS

- *10. **Adopt Resolution Granting Recognition of an Exclusive Bargaining Representative for the Confidential and Mid-Management Unit (Staff Contact: Cherie Rosenquist 586-3090)**
- *11. **Adopt Resolution Directing Preparation of the Annual Engineer's Report, for Landscaping and Lighting Maintenance District No. 95-1, Program No. 9474 (Staff Contact: Mehdi Khaila, 586-3328)**
- *12. **Adopt Resolution Directing Preparation of the Annual Engineer's Report, for Landscaping and Lighting Maintenance District No. 98-1, Sinclair Horizon, Program No. 9479 (Staff Contact: Mehdi Khaila, 586-3328)**
- *13. **Adopt Resolution Approving Application for Surplus Community Development Block Grant (CDBG) Disaster Relief Funding (Staff Contact: Darryl Wong, 586-3345)**

XVIII. BIDS AND CONTRACTS

- *14. **Approve Plans and Specifications for Park Playground Upgrades (Project No. 5077) (Staff Contact: Steve Erickson, 586-3317)**
- *15. **Approve Plans and Specifications: Interim Senior Center Modular Addition (Project No. 8151) (Staff Contact: Mark Rogge, 586-3257)**
- *16. **Authorize the City Manager to Execute a Contract Agreement to Perform the Necessary Engineering Studies, Precise Plan, and Detailed Streetscape Plan for the Entire Length of Main Street (Staff Contact: James Lindsay, 586-3274)**

- *17. Award Construction Contract: Calaveras/Piedmont-Evans Intersection Improvements (Project No. 4208) (Staff Contact: Steve Erickson, 586-3317)**

XIX. CLAIMS AND DEMANDS

- *18. Approve Payment Requests: Miscellaneous Vendors/Contractors (Staff Contact: Lou Zenzen, 586-3161)**

- *19. Approve Payroll Registers (Staff Contact: Emma Karlen, 586-3145)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 3, 2003, AT 7:30 P.M.**

NOTICE:

Beginning August 5, 2003, the public portion of the City Council meetings will begin at 7:00 p.m.

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XII. PUBLIC HEARING

1. 2003/04 STORM DRAIN CONNECTION FEE: CONTINUE CONSIDERATION OF ORDINANCE NO. 239.2, AMENDMENTS TO TITLE XI OF THE MILPITAS MUNICIPAL CODE INDEFINITELY (STAFF CONTACT: DARRYL WONG, 586-3345)

BACKGROUND: At the May 6, 2003, Council meeting, consideration of Ordinance No. 239.2 relating to storm drain connection fees was continued until the May 20, 2003, Council meeting for additional evaluation. Staff is now recommending that this item be postponed indefinitely for further study.

In order to do this, the public hearing should be closed and staff directed to re-notice the hearing when it is brought back to the Council.

RECOMMENDATION:

1. Close the public hearing.
2. Direct staff to re-notice the public hearing for a future Council meeting.

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: May 6, 2003

RA4. APPROVAL OF AGENDA AND CONSENT CALENDAR (ITEMS WITH ASTERISKS)

RA5. JOINT PUBLIC HEARING ON THE PROPOSED EIGHTH AMENDMENT TO THE REDEVELOPMENT PLAN FOR REDEVELOPMENT PROJECT NO. 1 (STAFF CONTACT: BLAIR KING, 586-3060)

BACKGROUND: California Law requires that the City Council and the Redevelopment Agency hold a combined or "joint" public hearing prior to the adoption of an amendment to its Redevelopment Plan for Redevelopment Project Area No 1. The Redevelopment Plan is a framework document that empowers the Redevelopment Agency to conduct a broad range of activities throughout the Project Area. Due to operation of law, unless amendments are made to the Plan, the Redevelopment Agency will exhaust its ability to collect tax increment, and the Agency will no longer be able to fund public improvements or provide for economic development activity. In addition to taking action to maintain the Agency's ability to collect tax increment and issue bonded debt, it is also proposed that the Redevelopment Project Area be expanded to include the remainder of the Midtown Area in order to implement the Midtown Specific Plan.

The Redevelopment Plan has been amended seven times. The proposed Eighth Amendment will accomplish the following: (1) add approximately 691 acres of the Midtown Area to the Existing Project Area; (2) increase the tax increment limit in the Existing Project Area from \$502 million

to \$2.4 billion for the Existing Project Area and the Added Area; (3) increase the bond debt limit for the Existing Project Area and Added Area from \$75 million to \$498 million; (4) limit the Agency's authority to use eminent domain within the Added Area to commercial property; and (5) revise and update various text provisions to conform to the requirements of state law.

Prior to and through the course of the public hearing, the City Council/Redevelopment Agency will be presented with documentation and facts that will allow the Council/Agency to make certain findings which are necessary for the adoption of the Eighth Amendment to the Redevelopment Plan. The majority of documents are contained in a companion "Joint Public Hearing Binder." For the most part, the Council/Agency has previously received copies of preliminary drafts of the various documents. The Joint Public Hearing Binder includes the Report to the City Council (a report prepared in accordance with Health and Safety Code Section 33352 that includes a blight study and a financial feasibility analysis), the Draft and Final Environmental Impact Reports, the Amended and Restated Redevelopment Plan, certifications and affidavits of mailings, and a draft ordinance and various resolutions.

Prior to opening the joint public hearing, it is recommended that the Redevelopment Agency consider and adopt a resolution to amend the legal description for the proposed Added Area. The proposed changes are technical and non-substantive involving five parcels totaling 1.5 acres. Portions of parcels were inadvertently split and included in the original legal description. The County Assessors Office has requested that the split parcels be removed.

State law requires that the Council/Agency follow certain procedures, some of them formal, in the conduct of the Joint Public Hearing. The Public Hearing has been noticed in accordance with State Law; notices have been mailed by first class mail to all residents, property owners, businesses, and tenants within the Existing Project Area and the Added Area; notices have been mailed, certified/return receipt, to taxing entities; and a notice has been published in the Milpitas Post for five consecutive weeks. Upon closing of the Public Hearing, it is recommended that the Council/Agency continue the joint meeting to June 3, 2003.

RECOMMENDATION:

1. Adopt a resolution approving the amendment to the legal description for the Added Area for the Milpitas Redevelopment Project No. 1.
2. Close the public hearing, and continue the joint meeting of the City Council and Redevelopment Agency to June 3, 2003.

RA6. REVIEW PROGRESS REPORT ON 3RD AND 4TH FLOOR IMPROVEMENTS AND PROJECT CLOSEOUT PROGRESS: CIVIC CENTER (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)

BACKGROUND: A staff presentation will be made at the council meeting, on the progress of the 3rd and 4th floor improvements and project close out.

RECOMMENDATION: Note receipt and file project close out progress report.

***RA7. REQUEST AUTHORIZATION TO RESALE AFFORDABLE HOUSING UNIT AT 24 RAIN WALK AT PARC METROPOLITAN GREAT MALL RESIDENTIAL DEVELOPMENT (STAFF CONTACT: FELIX RELIFORD; 586-3071)**

BACKGROUND: At its meeting on January 21, 2003, the Redevelopment Agency authorized staff to purchase the below market rate affordable housing unit at 24 Rain Walk at the Parc Metropolitan Great Mall Residential Development. The Redevelopment Agency purchased the unit to maintain its long-term affordability. The below market rate unit is 1,353 sq. ft. and the selling price is \$335,000 for a moderate-income household. The Redevelopment Agency also

directed staff to proceed to resale the unit in order for the agency to receive a return on its investment.

Over the past three months, staff has advised the below market rate unit and found a new buyer. Mr. Trung K. Huynh, a Milpitas resident has met the City's and lender's criteria and has agreed to purchase the unit. Builder's Mortgage, the lender is currently processing the legal documentation for the sale of the unit. The City purchased the unit at \$326,500, the lender has recommended that the City sale the unit for \$335,000 and use the difference (\$8,500) in the sale price to pay the buyers closing costs.

Upon the authorization by the Redevelopment Agency to resale the unit, staff will work with the City Attorney's Office to prepare and execute the appropriate legal documents for the agency to continue to maintain long-term affordability of the unit.

RECOMMENDATION: Authorize staff to resale the below market rate affordable housing unit to Mr. Trung Huynh and execute the appropriate legal documents to maintain the long-term affordability.

***RA8. ACCEPT AND FILE THE 2002 TERRACE GARDENS ANNUAL FINANCIAL REPORT (STAFF CONTACT: TOM WILSON, 586-3050)**

BACKGROUND: The Regulatory Agreement between Terrace Gardens, Inc. and the City of Milpitas requires that an Annual Financial Report be prepared by an independent Certified Public Accountant. The Annual Financial Report for Terrace Gardens, Inc. for the year ended December 31, 2002, (a copy of which is included in the Council/Agency's agenda packet) has been completed by Alan R. David, Certified Public Accountant, and was presented and approved by the Terrace Gardens Board of Directors at its meeting of March 20, 2003. The report includes comparative financial information from the previous year and concludes that the financial statements present the financial position of Terrace Gardens, Inc. fairly and in conformity with generally accepted accounting principles.

RECOMMENDATION: Accept and file the Terrace Gardens Annual Financial Report for 2002.

RA9. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

2. CONSIDER INTRODUCING ORDINANCE NO. 260 ADDING CHAPTER 600 TO TITLE I OF THE MILPITAS MUNICIPAL CODE RELATED TO DISPLAY OF FLAGS: VICE MAYOR DIXON AND COUNCILMEMBER POLANSKI

BACKGROUND: At the request of Vice Mayor Dixon and Councilmember Polanski, the City Attorney's Office prepared Ordinance No. 260, included in the Council's agenda packet. If adopted, the Ordinance would codify the City's policy regarding flag ceremonies at Higuera Adobe and would modify the current policy regarding flag ceremonies at City Hall.

Specifically, the Ordinance:

- Codifies the current City of Milpitas Flag Policy for flag ceremonies at the Higuera Adobe including the application, public hearing, and City Council approval requirements.

- Requires that the ten (10) permanent flag poles located at City Hall be used for only those purposes specified (i.e., display of the flags of the United States of America, State of California, and City of Milpitas on the flagpoles in front of City Hall and at the Veteran's Memorial site, and display of four flags of the United States of America on the four permanent flag poles adjacent to the pond at City Hall).
- Upon the request of an individual or organization, the Ordinance allows flags of nations in existence after 1954 to be displayed in specified locations at the Civic Center complex and Community Center. Such a display must be approved by the City Council at public hearing held prior to the display event.

RECOMMENDATION: Consider the request and, if desired by the City Council, waive reading beyond the title and introduce Ordinance No. 260 adding Chapter 600 to Title I of the Milpitas Municipal Code.

3. APPROVE A NEW LOCATION FOR THE INSTALLATION OF THE PUBLIC ART WORK IN MURPHY PARK: COUNCILMEMBER POLANSKI

BACKGROUND: Councilmember Polanski placed this item on the agenda and is asking the Council to discuss the location for the installation of the public art work in Murphy Park.

RECOMMENDATION: Discuss location and provide direction to staff.

4. DISCUSS AND APPROVE A COUNCIL POLICY DIRECTING STAFF TO PLACE ON THE CLOSED SESSION AGENDA ALL ITEMS RELATING TO LABOR NEGOTIATIONS PLACED BY A COUNCILMEMBER ON THE COUNCIL'S OPEN PUBLIC AGENDA: COUNCILMEMBER POLANSKI

BACKGROUND: Councilmember Polanski is requesting that the Council discuss implementing a policy that would direct staff to place on the Closed Session agenda all items relating to labor negotiations placed by a Councilmember on the Council's open public agenda.

RECOMMENDATION: Discuss and provide direction to staff.

COMMUNITY ADVISORY COMMISSION

***5. AMEND THE 2003 COMMUNITY ADVISORY COMMISSION WORK PLAN (STAFF CONTACT: JAMES LINDSAY, 586-3274)**

BACKGROUND: Pursuant to the Community Advisory Commission (CAC) Bylaws, the CAC serves as an advisory body to the City Council on matters affecting citizens relating to community improvement. In January the City Council approved the following tasks for the CAC's 2003 Work Plan:

Short Term Goals

1. City Tree Planting Programs
2. Neighborhood Night-Out and WATCH
3. Milpitas' 50-Year Anniversary Celebration
4. Review the Term of the Mayor
5. Ethical Campaign Workshop
6. Town Hall Meeting
7. Street Sweeping
8. Homeowner Associations Meeting

Long Term Goals

1. Cellular Phone Usage
2. Thank You Activity for City Personnel

The CAC has received a number of requests from a neighborhood group during Citizen's Forum to address potential excessive rental activities in single-family homes resulting in impacts to neighborhoods citywide. The CAC would like to research this issue further and is requesting Council approval to add this item to their 2003 Work Plan as a short-term goal.

RECOMMENDATION: Amend the 2003 Community Advisory Commission Work Plan to include researching potential excessive rental activities in single-family homes.

XV. NEW BUSINESS

***6. SELWYN PARK: APPROPRIATION FROM PARKS FUND (STAFF CONTACT: MIKE MCNEELY, 586-3301 AND MARK ROGGE, 586-3257)**

BACKGROUND: On April 15, 2003 the City Council allocated \$72,222 in Community Development Block Grant (CDBG) funds for improvements to Selwyn Park. This allocation will not be available until after July 1, 2003. An existing allocation of \$100,000 for Selwyn Park from prior year CDBG fund was appropriated to three different projects:

• Park Renovation, Project 5010	\$50,000
• Park Path Resurfacing, Project 5068	\$30,000
• Athletic Court Resurfacing, Project 5069	<u>\$20,000</u>
	\$100,000

The total estimate for the Selwyn Park improvement project is \$190,000. Staff recommends aggregating all of the above funds under one new project number and appropriating \$17,778 at this time from unallocated Parks funds to complete the funding for this project.

Assigning a new Capital Improvement Project number is recommended to track this project for accounting purposes. Creation of the new CIP and initiating a portion of the funding at this time will allow staff to track progress on this project before the beginning of the new fiscal year. The majority of the cost of this project is expected to occur after July 1st, when the new CDBG funds will be available.

RECOMMENDATION:

1. Establish new Capital Project No. CP 5078 Selwyn Park improvements with a total budget in 2002-03 of \$117,778 plus \$72,222 from CDBG in 2003-04.
2. Transfer prior year CDBG funding to Selwyn Park.
3. Appropriate \$17,778 from unallocated Parks funds to the Selwyn Park project.

***7. APPROVE TWO YOUTH SPORTS ASSISTANCE FUND GRANT REQUESTS (STAFF CONTACT: KERRILYN ELY, 586-3225)**

BACKGROUND: On June 25, 2002, the Milpitas City Council approved and appropriated \$10,000 for the Youth Sports Assistance Fund for the 2002-2003 budget year. Included in the Council's agenda packet for review and consideration are two (2) Group Youth Sports Assistance Fund applications.

PAL Soccer requesting \$1,000.00 to offset costs of the purchase of two (2) under 8 goals, first aid kits for each field, soccer balls and other misc. equipment for the fall 2003 Soccer season. Newly formed, Milpitas Youth Soccer Club requesting, \$1,000.00 to offset costs of the purchase of goals, nets, field marking equipment, all one-time purchases to start the Fall 2003 Soccer season.

These group applications fall within the grant guidelines. The Parks, Recreation and Cultural Resources Commission reviewed this grant on May 05, 2003, meeting and recommended approval to the City Council.

There is currently a balance of \$6,670.00 in the 2002-2003 Youth Sports Assistance Fund.

RECOMMENDATION: Approve the following two (2) Group Youth Assistance grants for PAL Soccer and Milpitas Youth Soccer Club as recommended by the Parks, Recreation and Cultural Resources Commission leaving a balance of \$4,670.00 for the remainder of the fiscal year.

XVI. ORDINANCES

8. INTRODUCE ORDINANCE NO. 243.2 AMENDING CHAPTER 210 OF TITLE I OF THE MILPITAS MUNICIPAL CODE RELATED TO DISBURSEMENT OF EXCESS CAMPAIGN FUNDS (STAFF CONTACT, STEVE MATTAS, 586-3040)

BACKGROUND: At the request of Mayor Esteves, the City Attorney's Office reviewed the City's campaign contribution ordinance in the context of existing state and federal case law, statutes, and regulations. Presently, the City's campaign contribution ordinance contains limitations on the amount any one person may contribute to a candidate for elective City office, limits the transfer of campaign funds, and requires the distribution of all excess campaign contributions if not expended for campaign purposes within ninety days after the election. An analysis of these provisions in light of the applicable law was provided to the City Council by way of separate memorandum dated March 7, 2003.

At the Regular Meeting of April 1, 2003, the City Council provided direction to the City Attorney's Office to modify the City's campaign contribution regulations to bring the regulations into compliance with State law. The Ordinance attached for your consideration contains these requested modifications.

Specifically, the attached Ordinance amends Section I-210-3.10 (d) to prohibit candidates from transferring funds into a candidate or elective officer's campaign committee from any other committee controlled by a candidate where the transfer of funds would result in a transfer from one candidate to another. As discussed in detail in our March 7, 2003 memorandum, the California Attorney General has recently opined that a ban on transfers from one campaign to a different campaign conducted by the same candidate was unconstitutional, but that a ban on transfers between candidates could be constitutional where there was also a limit on campaign contributions in place. *See* 85 Ops. Cal. Atty. Gen. 43 (2002). The proposed Ordinance modifies the Milpitas Municipal Code consistent with the direction of the Attorney General and in light of the applicable case law.

In addition, the attached Ordinance deletes section I-210-4.20, "Excess Funds," from the Milpitas Municipal Code. This deletion is warranted as section 89519 of the California Government Code provides that surplus funds are those funds under the control of a former candidate or elected officer upon leaving any elected office, or at the end of the post election reporting period following a defeat. In contrast, section I-210-4.20 does not use this definition of surplus funds, but instead requires that all contributions not expended for campaign purposes within ninety (90) days following the election shall be distributed in accordance with the ordinance. As a result of this contradiction, section 89519 likely preempts section I-120.4-20.

Government Code section 89519 further provides that surplus campaign funds shall be used only for the payment of outstanding campaign debts or expenses, repayment of contributions, donations to charitable organizations, contributions to a political party committee, contributions to support or oppose candidates for federal office or elective office in a state other than California, contributions to support or oppose a ballot measure, and payment for professional

services. Section 89519 allows a candidate to choose from a wide range of distribution options contradicting section I-210-4.20 that allows a candidate only three choices for distribution. The deletion of section I-210-4.20 is further warranted by this conflict between the Code and state law. Upon deletion of section I-210-4.20, city candidates would remain subject to section 89519's provisions regarding distribution of surplus funds.

RECOMMENDATION: Waive reading beyond the title and introduce Ordinance No. 243.2 amending Chapter 210 of Title I of the Milpitas Municipal Code.

9. ADOPT ORDINANCE NO. 38.761 AMENDING TITLE XI, CHAPTER 10 (PLANNING, ZONING AND ANNEXATION) OF THE MUNICIPAL CODE (P-ZT2003-1) AND THE ZONING MAP (P-ZC2003-1) (STAFF CONTACT: STACI PEREIRA, 586-3278)

BACKGROUND: Proposed Ordinance 38.761, included in the Council's agenda packet, materials was introduced to the City Council for first reading at its meeting of May 6, 2003. This ordinance involves amendments to the zoning map (24 parcels rezoned to POS – Parks and Open Space and 2 parcels rezoned to M2 – Heavy Industrial). In addition, 28 issues addressed in the form of amendments to the zoning code, as detailed in the summary matrix included in the Council's agenda packet, are a part of this ordinance.

At the May 6, 2003 meeting, a public hearing was conducted for this ordinance at which time comments were received. The Council did not request any revisions to be made by Planning staff. In addition, the Council adopted Resolution No. 7298 for the associated Negative Declaration (P-EA2003-2) and Resolution No. 7299 for the General Plan and Specific Plan amendments (P-GM2003-1) related to modifying the Midtown Area boundaries to include all Serra Center parcels and to amend the land use of those parcels being rezoned. In order to allow the Council to take any additional public testimony, should it so desire, this item has not been placed on the consent calendar.

RECOMMENDATION:

1. Waive full reading of the ordinance.
2. Adopt Ordinance No. 38.761 (P-ZT2003-1 and P-ZC2003-1).

XVII. RESOLUTIONS

***10. ADOPT RESOLUTION GRANTING RECOGNITION OF AN EXCLUSIVE BARGAINING REPRESENTATIVE FOR THE CONFIDENTIAL AND MID-MANAGEMENT UNIT (STAFF CONTACT: CHERIE ROSENQUIST 586-3090)**

BACKGROUND: In April 2001 and August 2001, Laborers' International Union of North America, AFL-CIO Local Union 270 (LIUNA) filed two petitions with the City of Milpitas seeking to become the exclusive bargaining representative of certain mid-management and confidential Milpitas employees. Subsequently, LIUNA revised its two petitions into a single petition for a combined unit. The State Mediation and Conciliation Service has certified that over 50% of the employees currently working in the agreed upon classifications verified their selection of LIUNA as their exclusive bargaining representative.

RECOMMENDATION: Adopt resolution to recognize LIUNA as the exclusive bargaining representative for the Confidential and Mid-Management Unit.

***11. ADOPT RESOLUTION DIRECTING PREPARATION OF THE ANNUAL ENGINEER'S REPORT, FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 95-1, MCCARTHY RANCH (PROGRAM NO. 9474) (STAFF CONTACT: MEHDI KHAJALA, 586-3328)**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District No. 95-1 (LMD 95-1), provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway landscaping on Ranch Drive.

The Landscaping and Lighting Act of 1972, requires adoption of the subject resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 17, 2003). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

RECOMMENDATION: Adopt resolution directing the preparation of the Annual Engineer's Report.

***12/ ADOPT RESOLUTION DIRECTING PREPARATION OF THE ANNUAL ENGINEER'S REPORT, FOR LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT NO. 98-1, SINCLAIR HORIZON (PROGRAM NO. 9479) (STAFF CONTACT: MEHDI KHAILA, 586-3328).**

BACKGROUND: Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1 provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. The Landscaping and Lighting Act of 1972, requires adoption of the subject resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 17, 2003). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

RECOMMENDATION: Adopt resolution directing the preparation of the Annual Engineer's Report.

***13. ADOPT RESOLUTION APPROVING APPLICATION FOR SURPLUS COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) DISASTER RELIEF FUNDING (STAFF CONTACT: DARRYL WONG, 586-3345)**

BACKGROUND: Staff has recently become aware of the availability of additional grant funds for 1998 storm reimbursement. To date, Milpitas has received approval for \$2.3 million. Approval of a resolution is necessary to submit an application for another approximately \$320,000 apparently available to Milpitas.

RECOMMENDATION: Approve resolution authorizing City Manager to act on City's behalf in all matters pertaining to the grant application.

XVIII. BIDS AND CONTRACTS

***14. APPROVE PLANS AND SPECIFICATIONS FOR PARK PLAYGROUND UPGRADES. (PROJECT NO. 5077) (STAFF CONTACT: STEVE ERICKSON, 586 3317)**

BACKGROUND: Plans and specifications have been prepared for playground renovations at Hall, Foothill, Dixon Landing, and Pinewood Parks for safety and access. The Parks Recreation Cultural Resource Committee at its February 3, 2003 meeting reviewed the conceptual plans. A selection of equipment including slides, swings, tunnels, climbers, poles, ladders, panels, decks, bridges and roofs has been designed to match each site conditions. The playground surface will be replaced with rubberized material and new sand. In addition, themes have been incorporated into the sites as follows:

Pinewood Park	Forest – wood-like, green roots and brown panels.
Dixon Park	Nautical - ship, flags in the center, arch-like roof and concrete pier seat.
Hall Park	River – reptile sculptures, yellow scale-like roof
Foothill Park	Assimilate Milpitas hillside ridgeline

The consultant's estimated construction cost is \$915,000. There are adequate funds in the project budget. The title sheet is included in the Council agenda packets and complete plans and specifications are available for review in the office of the City Engineer.

RECOMMENDATION:

1. Approve plans and specifications.
2. Authorize advertising for construction bid proposals.

***15. APPROVE PLANS AND SPECIFICATIONS: INTERIM SENIOR CENTER MODULAR ADDITION (PROJECT NO. 8151) (STAFF CONTACT: MARK ROGGE, 586-3257)**

BACKGROUND: On April 15, 2003 the City Council established capital project #CP 8151, Interim Senior Center, with a total budget of \$573,000. The project's goals are to increase program space and improve the Interim Senior Center located at the Sal Cracolice site at 540 South Abel Street.

Staff is focusing attention on those items that have the longest lead-time to expedite the completion of the project. Application for new electric service was completed first, since PG&E engineering and installation could take the longest time. The next step is acquisition of modular units. Once the bids are received for the modular units, the winning manufacturer's actual dimensions and details will be used to adjust the site plans, which will be bid separately.

Staff prepared plans and specifications for the modular units. A diagram is provided in the Council packet illustrating the layout of the building, along with exterior building elevations. The modular addition will provide four large rooms suitable for a variety of activities, multi-use restrooms, and a small utility room. A hallway links each of the classrooms, restrooms, and utility room to a main entry and an auxiliary exit. The modular building features many windows, good lighting, storage space, a utility sink, and other amenities. Installation and seismic restraints are included.

The estimate for the modulars is approximately \$197,000. Complete plans and specifications are available for review in the office of the City Engineer.

RECOMMENDATION:

1. Approve plans and specifications.
2. Authorize advertising for bid proposals.

***16. AUTHORIZE THE CITY MANAGER TO EXECUTE A CONTRACT AGREEMENT TO PERFORM THE NECESSARY ENGINEERING STUDIES, PRECISE PLAN, AND DETAILED STREETSCAPE PLAN FOR THE ENTIRE LENGTH OF MAIN STREET (STAFF CONTACT: JAMES LINDSAY, 586-3274)**

BACKGROUND: In March 2002, the City Council adopted the Midtown Specific Plan to encourage the development of a high-quality, livable, and exciting urban center within Milpitas that creates more housing opportunities and supports the community's investment in transit. Since the plan's adoption, an interdepartmental team has been establishing the foundation necessary to implement the programs and policies contained in the Specific Plan. The following three City projects would comprise the initial implementation effort:

- Reconstruction of Main Street
- New Main Street streetscape
- Main Street Precise Plan
- Signage Guidelines
-

As envisioned by the Specific Plan, the streetscape would include new landscaping, pedestrian-scaled light fixtures, traffic calming measures, area identification elements, benches and other amenities. The resulting plans would provide the basis for cost estimates for future CIP projects and provide direction for private developers. The Main Street Precise Plan would coordinate and guide development over several parcels in the vicinity of Main and Serra, so that each individual development contributes to a coherent overall site plan for a larger area. The City's preparation of this plan appropriately shifts the responsibility from property owners to the City as a tool to encourage land assembly.

These implementation steps are consistent with the following Midtown Specific Plan Policies:

- Policy 4.11: Reconstruct Main Street to provide an appropriate subsurface base for the street.
- Policy 5.4: Implement a program of streetscape improvements along Main and Abel Streets and Great Mall Parkway.
- Policy 7.5: Require the preparation of a coordinated development plan (Precise Plan) for several parcels when development is proposed [in the vicinity of Main & Serra].

Through the City's consultant selection process, Nolte & Associates, paired with the urban planning firm Freedman, Tung & Bottomley, was the highest rated to perform the necessary engineering studies and produce the detailed streetscape and precise plan needed for these implementation steps. The contract is for the amount of \$327,260.00. Staff is recommending a total budget of \$376,400 to include staff administration of the contract.

RECOMMENDATION:

1. Establish a new Capital Project titled "Main Street Precise Plan and Streetscape Study" with a total budget of \$376,400 from the RDA Tax Increment Fund.
2. Appropriate \$376,400 from the unallocated RDA Funds to the Main Street precise Plan and Streetscape Project and approve the budget change form. The required funding is currently available from the RDA.
3. Authorize the City Manager to execute a contract with Nolte & Associates, in an amount of \$327,260.00, to perform the necessary engineering studies, precise plan, and detailed streetscape plan for the entire length of Main Street.

***17. AWARD CONSTRUCTION CONTRACT: CALAVERAS/PIEDMONT-EVANS INTERSECTION IMPROVEMENTS (PROJECT NO. 4208) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: On April 1, 2003, the City Council approved the project plans and specifications and authorized the advertisement of the project for bids. This project provides new roadway improvements including: curb & gutter, sidewalk, median islands, drainage inlets, street lighting, and landscaping along the south side of Calaveras Boulevard west of Piedmont Rd. The project was advertised and sealed proposals were opened on Tuesday, May 6, 2003. The proposals ranged from \$360,655 to \$1,120,187. The consulting Engineer's estimate for the work was \$701,000. The low bidder was O'Grady Paving.

There are sufficient funds in the project budget for all of these expenses.

RECOMMENDATION: Award the contract to O'Grady Paving in the amount of \$360,655.

XIX. CLAIMS AND DEMANDS

***18. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$65,000.00 to Cayenta, Inc. for annual software maintenance and support of the City's finance and personnel computer systems for the Information Services Department. (Funds are available from the Information Services Department operating budget for this service.)
2. \$45,000.00 to Oracle Corp for annual software license renewal and technical support for the Citywide usage of the Oracle software packages for the Information Services Department. (Funds are available from the Information Services Department operating budget for this service.)
3. \$27,639.00 to Tiburon, Inc. for renewal of software support and annual maintenance to support the police records management system for the Information Services Department. (Funds are available from the Information Services Department operating budget for this service.)
4. \$11,600.00 to Beck's Shoes for 75 pairs of firefighter safety work boots for the Fire Department. Beck's Shoes submitted the lowest quote. (Funds are available from the Fire Department operating budget for this purchase.)

RECOMMENDATION: Approve the purchase requests.

***19. APPROVE PAYROLL REGISTERS (STAFF CONTACT: EMMA KARLEN, 586-3145)**

BACKGROUND: The Payroll Register for the period ending April 19, 2003, in the amount of \$1,565,779.31, and May 3, 2003, in the amount of \$1,551,869.10 are submitted for approval.

RECOMMENDATION: Approve Payroll Registers as submitted.

XX. ADJOURNMENT

City Council

Jose Esteves, Mayor

Patricia Dixon, Vice Mayor

Bob Livengood, Councilmember

Althea Polanski, Councilmember

Armando Gomez, Councilmember



CITY OF MILPITAS

MILPITAS CITY COUNCIL MEETING

6:30 P.M.

Council Chambers

455 E. Calaveras Boulevard

SUPPLEMENTAL AGENDA

NOTICE IS HEREBY GIVEN that the May 20, 2003, City Council/Redevelopment Agency agenda is amended by the addition of the following Closed Session item:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

(Pursuant to Government Code Section 54956.9[b])

One Potential Case
